

# **EXHIBIT E**



3. This is an action for copyright and trademark infringement against all defendants who operate a retail video store located at 39 East Broadway, New York, New York 10002. As set forth in the Complaint, the Amended Complaint and the affidavits submitted in support of plaintiff's application for an Order of Seizure, Defendant has engaged in the unauthorized importation, duplication and/or distribution of Plaintiff's Motion Pictures.

4. On September 24, 2007, this Court issued an Order of Seizure, providing, *inter alia*, for the seizure and impoundment of unauthorized copies of Plaintiff's Motion Pictures from Defendant as well as any equipment being used to create such unauthorized copies.

5. On October 6, 2007, United States Marshals accompanied by plaintiff's representatives, went to Defendant's store to execute the Order of Seizure. The Marshals served the Order of Seizure, the Summons and Complaint, and supporting documents. Immediately following service of these pleadings, approximately 818 unauthorized copies of Plaintiff's Motion Pictures were seized from Defendant. An inventory of titles seized including the number of works infringed is attached hereto as Exhibit A. Plaintiff is the owner of exclusive distribution rights for these copyrighted works each of which has been infringed by Defendant.

6. During the seizure, the "Broadway Audio" store was solely being operated by the individual defendant Xiu Hui Chen; there were no other workers in the store. Ms. Chen also accepted service of the pleadings.

7. Plaintiff's Motion Pictures were being distributed on DVD-9 format. DVD-9 is a format of digital video disc which allow longer lengths of programming as compared to the regular DVD formats. Plaintiff does not use the DVD-9 format for any of its motion pictures. Pirates use this format because they can place a large amount of episodes of Plaintiff's Motion Pictures on a single disc.

8. All of the motion pictures at issue are registered with the Copyright Office or have pending registration or are protected under international treaties. The certificates of copyright registrations for the works in which plaintiff requests statutory damages are hereto attached as Exhibit B. These registrations show that Defendant infringed approximately 920 separate copyrighted works.

9. The Copyright Act provides that a prevailing plaintiff be awarded statutory damages of \$750 to \$30,000 for each copyrighted work infringed. 17 U.S.C. § 504(c). Plaintiff elects statutory damages and requests only a minimum statutory damage award of \$750 per work infringed. Therefore, plaintiff seeks a statutory damage award for each of 920 works or

\$690,000.00.

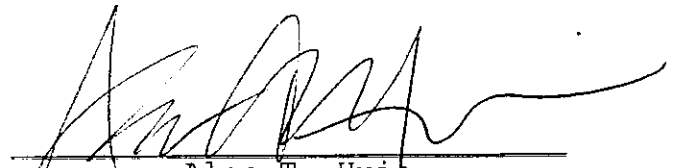
10. Plaintiff is suffering severe and irreparable injury because of the distribution of unauthorized discs of Plaintiff's Motion Pictures. Such unauthorized activity undercuts and threatens to destroy the market for authorized discs. Plaintiff spends substantial sums and resources advertising and promoting its licensed titles through newspaper advertisements, catalogs, websites, poster and promotional items. Defendant benefits from plaintiff's marketing efforts but distributes unauthorized copies of plaintiff's discs. Defendant and other pirates do not pay license fees for exclusive United States distribution rights as does plaintiff and therefore can and do undercut plaintiff's wholesale prices. Defendant's infringing activity also puts it at a competitive advantage over plaintiff's legitimate licensees. Plaintiff also suffers severe and irreparable injury because its customers are being misled as to the source and origin of the videodiscs since retailers such as Defendant are distributing illegally duplicated inferior versions of Plaintiff's Motion Pictures.

11. The unauthorized distribution of Plaintiff's Motion Pictures undercuts plaintiff's ability to sell and distribute its copies to video stores; undermines plaintiff's licensed retailers from selling or renting the legitimate copies to consumers; and damages consumers who are paying for an inferior


quality copy.

Wherefore, it is respectfully requested that a default judgment be entered against Defendant, 1) awarding plaintiff statutory damages under the Copyright Act of \$690,000.00; 2) awarding plaintiff its costs of suit including reasonable attorney's fees if plaintiff is not granted statutory damages of \$690,000.00; and 3) permanently enjoining Defendant from further infringing plaintiff's copyrights.

Dated Feb. 4, 2008

  
Alan T. Huie

Sworn to before me this  
4 day of Feb 2008

  
Notary Public

